



OSHA's Emergency Temporary Standard for COVID-19 – WHAT YOU NEED TO KNOW!

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Presented by



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Agenda

- What is the purpose?
- Who is covered?
- What is required by ETS?



What is the Purpose of the ETS?

“OSHA has determined that employee exposure to SARS-CoV-2, the virus that causes COVID-19, presents a grave danger to workers in healthcare settings where people with suspected or confirmed COVID-19 are reasonably expected to be present. These healthcare workers continue to put their lives on the line helping people who may have COVID-19, and they deserve protection against ongoing exposures in the workplace.”



Who is Covered? – Healthcare Services

“The ETS is aimed at protecting workers facing the highest COVID-19 hazards—those working in healthcare settings where suspected or confirmed COVID-19 patients are treated. This includes employees in hospitals, **nursing homes, and assisted living facilities**; emergency responders; home healthcare workers; and employees in ambulatory care facilities where suspected or confirmed COVID-19 patients are treated.”

- Healthcare services
 - Hospitals
 - Ambulatory Care
 - Home Health Care
 - Nursing Homes
 - Assisted Living Facilities
 - Emergency Responders



Who is Covered? – Healthcare Support Services

- Services that support the provision of healthcare services:
 - Patient intake/admission
 - Patient food service
 - Equipment and facility maintenance
 - Housekeeping services
 - Healthcare laundry services
 - Medical waste handling services
 - Medical equipment cleaning and reprocessing services

WHAT HEALTHCARE EMPLOYERS ARE NOT INCLUDED:

THE ETS DOES NOT APPLY TO THE FOLLOWING HEALTHCARE SETTINGS:

Provision of First Aid By An Employee who is not a licensed healthcare provider;

Pharmacists in a retail setting;

Non-hospital ambulatory care settings where non-employees are screened for suspected or confirmed COVID-19;

Hospital ambulatory care settings where employees are fully vaccinated and non-employees are screened prior to entry;

Home healthcare settings where employees are fully vaccinated and non-employees are screened prior to entry;

Healthcare support services not performed in a healthcare setting;

Telehealth services where direct patient care does not occur.

Exemptions to Coverage

- The ETS exempts fully vaccinated workers from:



Masking

Distancing and barrier requirements when in well-defined areas where there is no reasonable expectation that any person with suspected or confirmed COVID-19 will be present.

What does the ETS require?

- Development of COVID-19 plan with employee engagement;
- Hazard assessment;
- Patient screening and management strategies;
- Standard transmission-based precautions;
- PPE (providing and ensuring employees wear facemasks when indoors and when occupying a vehicle with another person for work purposes) and respirators for aerosol-generating procedures;
- Physical distancing;
- Physical barriers (not including materials made out of cloth fabric or mesh and does not include barriers with speaking grates that allow respiratory droplets to pass through).

ETS requirements continued ...

- Cleaning and disinfection;
- Ventilation and maintenance;
- Health Screening and medical management;
- Anti-retaliation;
- Recordkeeping;
- Report work-related COVID-19 fatalities and in-patient hospitalizations to OSHA.



COVID-19 Plan

- Employers must designate a site safety coordinator.
- Site safety coordinator must:
 - Be able to understand and identify COVID-19 hazards;
 - Be knowledgeable in infection control principles and practices; and
 - Have the authority to ensure compliance with the COVID-19 plan so that they can take corrective measures when hazards are discovered.



Soliciting Input from Employees for the COVID Plan

- Employers are required to seek the input of *non-managerial* employees and their representatives.
- Ways to seek feedback, include, but are not limited to:
 - Safety meetings
 - Safety committees
 - Conversations between managers and non-managerial employees
 - Negotiations with bargaining agent
 - Employers can also solicit feedback from employees through the use of employee surveys and suggestion boxes.



Hazard Assessment

- Hazard assessment must include an evaluation of employees' potential workplace exposure to all people present onsite – including:
 - Patients;
 - Coworkers;
 - Employees of other entities;
 - The public;
 - Clients;
 - Independent contractors;
 - Visitors; and
 - Other non-employees



Cleaning and Disinfection

Follow standard practices for cleaning and disinfection of surfaces and equipment in accordance with CDC guidelines in patient care areas, resident rooms, and for medical devices and equipment.

In all other areas, clean high-touch surfaces and equipment at least once a day and provide alcohol-based hand rub that is at least 60% alcohol or provide readily accessible handwashing facilities.

Ventilation

Ensure that employer-owned or controlled existing HVAC systems are used in accordance with manufacturer's instructions and design specifications for the systems and that air filters are rated Minimum Efficiency Reporting Value (MERV) 13 or higher if the system allows it.



Health Screening and Medical Management

- (1) Screen employees before each workday and shift;
- (2) Require each employee to promptly notify the employer when the employee is COVID-19 positive, suspected of having COVID-19, or experiencing certain symptoms;
- (3) Notify certain employees within 24 hours when a person who has been in the workplace is COVID-19 positive;
- (4) Follow requirements for removing employees from the workplace;
- (5) Employers with more than 10 employees, provide medical removal protection benefits in accordance with the standard to workers who must isolate or quarantine.

Medical Removal Protection Benefits

Obligations to pay the removed employee depend on the size of the employer:

Employers with 10 or fewer employees on the date that the ETS becomes effective are not required to maintain pay for removed employees.

Employers with fewer than 500 employees must pay the employee's regular pay, up to \$1400 per week, for the first two weeks that the employee is removed. Beginning in the third week, if the employee's removal continues that long, the employer must pay two thirds of the same regular pay the employee would have received if working, up to \$200 a day (equivalent to \$1000 per week in most cases).

Employers with 500 or more employees must pay the employee's salary up to \$1400 per week during the entire period of removal, until the employee meets the return to work criteria.

Employers with more than 10 employees must also continue to provide the benefits to which the employee is normally entitled (e.g., employer-sponsored health insurance) during the removal period.

Vaccinations

- “The employer must support COVID-19 vaccination for each employee by providing reasonable time and paid leave (e.g., paid sick leave, administrative leave) to each employee for vaccination and any side effects experienced following vaccination.”
 - Reasonable time may include, but is not limited to, time spent during work hours related to the vaccination appointment(s), such as registering, completing required paperwork, all time spent at the vaccination site (e.g., receiving the vaccination dose, post-vaccination monitoring by vaccine provider), and time spent traveling to and from the location for vaccination (including travel to an off-site location (e.g., a pharmacy), or situations in which an employee working remotely (e.g., telework) or in an alternate location must travel to the workplace to receive the vaccine).
 - Paid leave provided may include paid sick leave or administrative leave. The paid leave can be in the form of an employee's accrued sick leave, if available, or in additional paid leave provided by the employer. Employers may set a cap on the amount of time and paid leave available to employees to receive each dose of the vaccine and to recover from any side effects, but the cap must be reasonable.
 - Employers must make reasonable time and paid leave available for employees to receive all vaccination doses during work hours. If an employee chooses to receive the vaccine outside of work hours, employers are not required to grant time and paid leave for the time that the employee spent receiving the vaccine during non-work hours.

Training



Training can be provided in a number of ways:

Online
Virtual
Instructor-led
Application-based methods



Employers must provide training in a language and at a “literacy level” that employees understand.



Employers may be required to develop trainings in multiple languages (for workforces that speak different languages).

COVID-19 LOG

- Employers with more than 10 employees on the effective date of the ETS are required to maintain a COVID-19 log while the ETS is in effect.
- Exemption applies to employers with 10 or fewer employees - however, size exemption is based on the total number of employees, rather than the number of employees at a particular location or establishment.



Mini Respiratory Protection Program

Applies only to specific circumstances specified under the ETS – but generally when workers are not exposed to suspected or confirmed sources of COVID-19 but where respirator use could offer enhanced worker protection.

Provide training (i.e. how to inspect/put on/remove/use a respirator; how to conduct a user seal check; how to store/maintain/inspect a respirator).

Ensure that user seal checks are conducted for tight-fitting respirators and that workers correct any problems discovered during a user seal check.

Ensure that if respirators are reused, they are reused properly.

Ensure the discontinuation of respirator use under certain conditions.

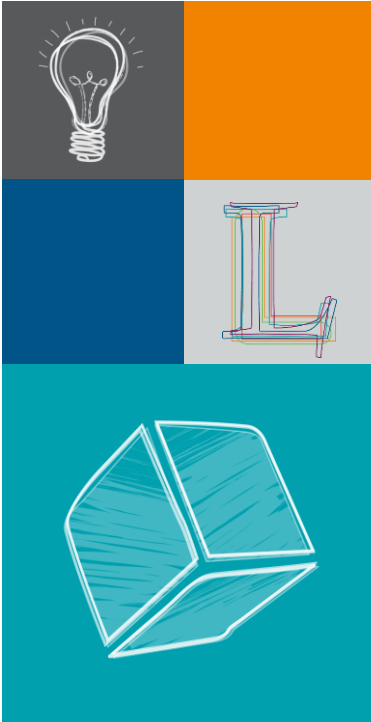
Deadlines for Compliance



Covered employers must comply with most of the provisions within 14 days.

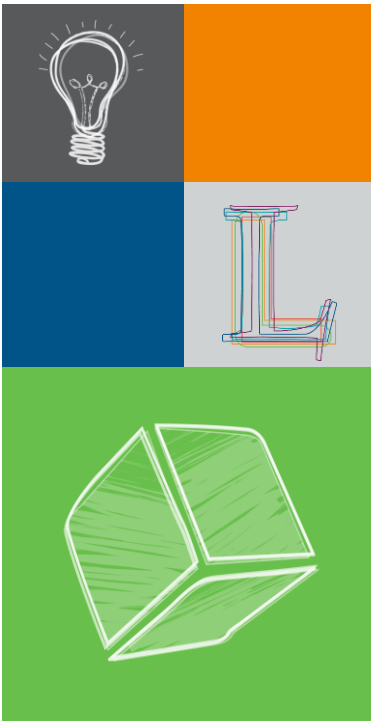


However, covered employers will have 30 days to comply with the provisions involving physical barriers, ventilation, and training.



Questions?

This information provided by Littler is not a substitute for experienced legal counsel and does not provide legal advice or attempt to address the numerous factual issues that inevitably arise in any employment-related dispute. Although this information attempts to cover some major recent developments, it is not all-inclusive, and the current status of any decision or principle of law should be verified by counsel.



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